

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 345 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-8.1-3-21 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 5 1, 2008]: **Sec. 21. (a) This section applies after December 31, 2008.**
- 6 **(b) The department shall cooperate with the:**
- 7 **(1) department of labor created by IC 22-1-1-1;**
- 8 **(2) worker's compensation board of Indiana created by**
- 9 **IC 22-3-1-1(a); and**
- 10 **(3) department of workforce development established by**
- 11 **IC 22-4.1-2-1;**
- 12 **by sharing information concerning any suspected misclassification**
- 13 **by a contractor (as defined in IC 22-2-14-5) of an employee as an**
- 14 **independent contractor. Information shared pursuant to this**
- 15 **section is confidential and may not be published or open to public**
- 16 **inspection.**
- 17 Page 3, between lines 23 and 24, begin a new paragraph and insert:
- 18 "SECTION 3. IC 6-8.1-9-14, AS AMENDED BY P.L.103-2007,
- 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2008]: **Sec. 14. (a) Except as provided in subsection (n), the**
- 21 **department shall establish, administer, and make available a**
- 22 **centralized debt collection program for use by state agencies to collect**
- 23 **delinquent accounts, charges, fees, loans, taxes, **civil penalties under****
- 24 **IC 22-2-14-13, or other indebtedness owed to or being collected by**

1 state agencies. The department's collection facilities shall be available
2 for use by other state agencies only when resources are available to the
3 department.

4 (b) The commissioner shall prescribe the appropriate form and
5 manner in which collection information is to be submitted to the
6 department.

7 (c) The debt must be delinquent and not subject to litigation, claim,
8 appeal, or review under the appropriate remedies of a state agency.

9 (d) The department has the authority to collect for the state or
10 claimant agency (as defined in IC 6-8.1-9.5-1) delinquent accounts,
11 charges, fees, loans, taxes, or other indebtedness due the state or
12 claimant agency that has a formal agreement with the department for
13 central debt collection.

14 (e) The formal agreement must provide that the information
15 provided to the department be sufficient to establish the obligation in
16 court and to render the agreement as a legal judgment on behalf of the
17 state. After transferring a file for collection to the department for
18 collection, the claimant agency shall terminate all collection procedures
19 and be available to provide assistance to the department. Upon receipt
20 of a file for collection, the department shall comply with all applicable
21 state and federal laws governing collection of the debt.

22 (f) The department may use a claimant agency's statutory authority
23 to collect the claimant agency's delinquent accounts, charges, fees,
24 loans, taxes, or other indebtedness owed to the claimant agency.

25 (g) The department's right to credit against taxes due may not be
26 impaired by any right granted the department or other state agency
27 under this section.

28 (h) The department of state revenue may charge the claimant agency
29 a fee not to exceed fifteen percent (15%) of any funds the department
30 collects for a claimant agency. Notwithstanding any law concerning
31 delinquent accounts, charges, fees, loans, taxes, or other indebtedness,
32 the fifteen percent (15%) fee shall be added to the amount due to the
33 state or claimant agency when the collection is made.

34 (i) Fees collected under subsection (h) shall be retained by the
35 department after the debt is collected for the claimant agency and are
36 appropriated to the department for use by the department in
37 administering this section.

38 (j) The department shall transfer any funds collected from a debtor
39 to the claimant agency within thirty (30) days after the end of the
40 month in which the funds were collected.

41 (k) When a claimant agency requests collection by the department,
42 the claimant agency shall provide the department with:

- 43 (1) the full name;
44 (2) the Social Security number or federal identification number,
45 or both;
46 (3) the last known mailing address; and

(4) additional information that the department may request; concerning the debtor.

(l) The department shall establish a minimum amount that the department will attempt to collect for the claimant agency.

(m) The commissioner shall report, not later than March 1 for the previous calendar year, to the governor, the budget director, and the legislative council concerning the implementation of the centralized debt collection program, the number of debts, the dollar amounts of debts collected, and an estimate of the future costs and benefits that may be associated with the collection program. A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(n) The department may not assess a fee to a state agency or a custodial parent for seeking a setoff to a state or federal income tax refund for past due child support.

SECTION 4. IC 22-1-1-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 23. The department of labor shall cooperate with the:**

(1) department of workforce development established by IC 22-4.1-2-1;

(2) department of state revenue established by IC 6-8.1-2-1; and

(3) worker's compensation board of Indiana created by IC 22-3-1-1(a);

by sharing information concerning any suspected misclassification by a contractor (as defined in IC 22-2-14-5) of an employee as an independent contractor. Information shared pursuant to this section is confidential and may not be published or open to public inspection.

SECTION 5. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 14. Employee Classification Act

Sec. 1. This chapter applies after December 31, 2008.

Sec. 2. This chapter is intended to address the practice of misclassifying employees as independent contractors.

Sec. 3. As used in this chapter, "agent of the contractor" means:

(1) an individual having management authority or enforcement powers with respect to a practice or policy of the contractor regarding the classification of an employee;

(2) a corporate officer; or

(3) a member of the board of directors;

of the contractor.

Sec. 4. As used in this chapter, "construction" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving,

wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, airport facility, highway, roadway, street, bridge, alley, bridge, sewer, drain, ditch, sewage disposal plant, waterworks, parking facility, railroad, excavation, or other project, development, real property or improvement, or doing any part of these actions. It is immaterial whether or not the performance of the work described involves the addition of any material or article of merchandise to, or fabrication into, a structure, project, development, real property, or improvement described in this section. The term includes moving construction related materials to or from the job site.

Sec. 5. As used in this chapter, "contractor" means any sole proprietor, partnership, firm, corporation, limited liability company, association, or other legal entity that engages in construction authorized by law to do business within Indiana. The term includes a general contractor, a subcontractor, and a lower tiered contractor. The term does not include the state, the federal government, or a political subdivision.

Sec. 6. As used in this chapter, "department" means the department of labor created by IC 22-1-1-1. The term includes the commissioner, employees of the department, and agents authorized by the commissioner to act on behalf of the department.

Sec. 7. As used in this chapter, "interested party" means a person with an interest in compliance with this chapter. The term does not require that a person be aggrieved in order to be considered an interested party.

Sec. 8. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 9. As used in this chapter, "performing services" means performing construction services.

Sec. 10. As used in this chapter, "public work" includes any public building, structure, airport facility, highway, roadway, street, alley, bridge, sewer, drain, ditch, sewage disposal plant, water works, parking facility, railroad, excavation, or other project, development, real property, or improvement that is paid for in whole or in part out of public funds or a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase.

Sec. 11. (a) An individual performing services for a contractor is considered to be an employee of the contractor unless:

(1) the:

(A) individual has been and will continue to be free from control or direction over the performance of the service for the contractor, both under the individual's contract of service and in fact; and

(B) individual is engaged in an independently established trade, occupation, profession, or business;

1 **(2) the individual is determined to be a legitimate sole**
 2 **proprietor or partnership because:**

3 **(A) the sole proprietor or partnership is performing the**
 4 **service without substantial direction and control as to the**
 5 **means and manner of providing the services, subject only**
 6 **to the right of the contractor, for whom the service is**
 7 **provided, to specify the desired result;**

8 **(B) the sole proprietor or partnership has a substantial**
 9 **investment of capital in the sole proprietorship;**

10 **(C) the sole proprietor or partnership owns the capital**
 11 **goods, gains the profits, and bears the losses of the sole**
 12 **proprietorship or partnership;**

13 **(D) the sole proprietor or partnership makes its services**
 14 **available to the general public or the business community**
 15 **on a continuing basis;**

16 **(E) the sole proprietor or partnership includes services**
 17 **rendered on a federal income tax schedule as an**
 18 **independent business or profession;**

19 **(F) the sole proprietor or partnership performs services**
 20 **for the contractor under the sole proprietor's or**
 21 **partnership's name and the contractor pays the sole**
 22 **proprietor or partnership a flat fee or other agreed**
 23 **amount of compensation that is not based on an established**
 24 **rate for any time period of work;**

25 **(G) the sole proprietor or partnership obtains and pays for**
 26 **the license or permit in the sole proprietor's or**
 27 **partnership's name when the services being provided**
 28 **require a license or permit;**

29 **(H) the sole proprietor or partnership furnishes the tools**
 30 **and equipment necessary to provide the service;**

31 **(I) if necessary, the sole proprietor or partnership hires its**
 32 **own employees, pays the employees without**
 33 **reimbursement from the contractor, and reports the**
 34 **employees' income to the Internal Revenue Service;**

35 **(J) the contractor does not:**

36 **(i) represent the sole proprietor or partnership as an**
 37 **employee of the contractor to its customers; or**

38 **(ii) reimburse the sole proprietor or partnership for its**
 39 **business expenses;**

40 **(K) the sole proprietor or partnership has the right to**
 41 **choose to perform similar services for others; and**

42 **(L) the sole proprietorship or partnership has a written**
 43 **agreement with the contractor describing the intended**
 44 **business relationship;**

45 **(3) the individual is an owner-operator that provides a motor**
 46 **vehicle and the services of a driver under a written contract**
 47 **that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR**

1 376, to a motor carrier; or

2 (4) the individual provides professional services to
3 construction projects, including a realtor, a decorator, a
4 project developer, a surveyor, or an office employee.

5 (b) A sole proprietor or partnership that is performing services
6 for a contractor as a subcontractor and does not meet the
7 requirements of subsection (a)(2) is considered an individual for
8 purposes of this chapter.

9 (c) In determining whether a contractor properly classifies an
10 individual as an employee, the department shall consider whether
11 the contractor does the following on behalf of the individual:

12 (1) Withholds, reports, and remits payroll taxes.

13 (2) Pays contributions to the unemployment insurance benefit
14 fund established by IC 22-4-26-1.

15 (3) Maintains worker's compensation insurance as required
16 by IC 22-3-5.

17 (4) Pays one and one-half (1 1/2) times the regular hourly rate
18 of wages for hours worked in excess of forty (40) hours in a
19 workweek.

20 (d) A contractor shall maintain records for a period of not less
21 than three (3) years for an individual performing services for the
22 contractor, regardless of whether the individual is classified as:

23 (1) an employee;

24 (2) an independent contractor;

25 (3) a sole proprietor; or

26 (4) a partnership.

27 (e) Records to be maintained by the contractor must include all
28 documents related to, or tending to establish the nature of, the
29 relationship between the contractor and an individual performing
30 services for the contractor. Records that must be maintained for an
31 individual performing services for the contractor include, but are
32 not limited to:

33 (1) the:

34 (A) name;

35 (B) address;

36 (C) phone number; and

37 (D) Social Security number, individual taxpayer
38 identification number, or federal tax identification
39 number;

40 (2) the type of work performed;

41 (3) all invoices, billing statements, payroll records, or other
42 payment records, including the dates of payments, and any
43 miscellaneous income paid or deductions made;

44 (4) copies of all contracts with the individual, agreements with
45 the individual, applications for employment by the individual
46 with the contractor; and

47 (5) any federal and state tax documents.

1 **Sec. 12. (a)** It is a violation of section 11(a) of this chapter for a
 2 contractor or an agent of a contractor to fail to properly classify an
 3 individual as an employee unless the relationship between the
 4 individual and the contractor is excluded under section 11(a) of this
 5 chapter.

6 **(b)** A contractor is not liable under this chapter for the failure
 7 of a subcontractor or a lower tiered subcontractor to properly
 8 classify persons performing services as employees.

9 **Sec. 13. (a)** A contractor or an agent of the contractor that
 10 violates this chapter is subject to a civil penalty not to exceed one
 11 thousand five hundred dollars (\$1,500) for each violation found by
 12 the first audit or investigation performed by the department. After
 13 a second or subsequent audit or investigation, a contractor or an
 14 agent of the contractor is subject to a civil penalty not to exceed
 15 two thousand five hundred dollars (\$2,500) for each repeat
 16 violation found by the department within a five (5) year period
 17 after the first violation. For purposes of this section, each violation
 18 of this chapter for each person and for each day the violation
 19 continues shall constitute a separate and distinct violation.

20 **(b)** The department shall consider the appropriateness of the
 21 amount of a penalty to the contractor or agent of the contractor
 22 charged upon the determination of the gravity of the violation.

23 **(c)** The department may assess up to twice the civil penalty
 24 under subsection (a) against a contractor or an agent of a
 25 contractor that:

- 26 (1) intentionally violates this chapter; or
- 27 (2) obstructs the department during an inspection of a place
 28 of employment during an investigation authorized under
 29 section 17(a) of this chapter concerning this chapter.

30 The amount of the penalty determined may be recovered, if
 31 necessary, in a civil action brought by the attorney general on
 32 behalf of the department. Any uncollected amount under this
 33 subsection or subsection (a) is subject to IC 6-8.1-9-14.

34 **Sec. 14. (a)** The department shall post a summary of the
 35 requirements of this chapter on its official Internet web site.

36 **(b)** The department also shall maintain the list set forth in
 37 section 18(e) of this chapter concerning contractors that are barred
 38 from performing public works contracts.

39 **Sec. 15.** A contractor for which one (1) or more individuals
 40 perform services who are not classified as employees under section
 41 11(a) of this chapter shall post and keep posted a notice, prepared
 42 by the department, summarizing the requirements of this chapter.
 43 The notice shall be posted in a conspicuous place on a job site
 44 where the individual performs services and in each of the offices of
 45 the contractor. The department shall furnish copies of summaries
 46 without charge to a contractor upon request.

47 **Sec. 16. (a)** An interested party may file a complaint with the

department against a contractor or an agent of the contractor if the interested party has a reasonable belief that the contractor or the agent of the contractor is in violation of this chapter. The complaint shall be filed on a form to be supplied by the department and in a manner prescribed by the department. The department may not investigate a complaint for a violation alleged to have occurred before January 1, 2009.

(b) The department shall conduct an investigation to ascertain the facts relating to the violation alleged in the complaint and determine whether a violation under this chapter has occurred. The investigation may be made by written or oral inquiry, field visit, conference, or any method or combination of methods the department considers suitable. The following apply to the investigation:

(1) If a contractor refuses to cooperate, the department may make a finding that there is a violation of this chapter.

(2) Complainants must provide the department with a notice of a change of address or telephone number or a prolonged absence from the current address so that the department can fully investigate the complaint. A complainant shall cooperate with the department, provide necessary information, and be available for interviews and conferences upon reasonable notice or request by the department. If a complainant cannot be located or does not respond to reasonable requests by the department, the department may dismiss the individual from the complaint.

(3) The department may investigate alleged violations not longer than three (3) years preceding the date the complaint was filed.

(4) Before making a final determination of a violation, the department shall notify the contractor of the substance of the department's investigation and afford the contractor an opportunity to present any written information within fifteen (15) calendar days for the department to consider in reaching its final determination.

(c) As part of its investigation, the department may convene a factfinding conference in person or by telephone to obtain additional information or evidence, identify the issues in dispute, ascertain the positions of the parties, and explore the possibility of settlement. The factfinding conference must be limited to those issues the department believes to be relevant. The following apply to the conference:

(1) Notice of the conference shall:

(A) be given to all parties at least ten (10) calendar days before the conference; and

(B) identify the individual requested to attend on behalf of each party.

(2) A party may be accompanied to a factfinding conference by:

- (A) the party's attorney or other representative; and
- (B) a translator if necessary.

(3) A departmental investigator shall conduct the conference and control the proceedings. No tape recording, stenographic report, or other verbatim record of the conference may be made. If an individual fails to cooperate at the conference and becomes so disruptive or abusive that a full and fair conference cannot be conducted, the departmental investigator shall exclude the individual from the conference.

(4) A complainant who fails to attend a factfinding conference may be dismissed from the complaint. If a contractor fails to attend a factfinding conference, the department may make a finding that there is a violation of this chapter.

Sec. 17. (a) The department:

- (1) may conduct investigations in connection with the administration and enforcement of this chapter;
- (2) shall enforce the provisions of this chapter; and
- (3) may hire investigators and other personnel necessary to carry out the purpose of this chapter.

(b) An employee of the department has authority to visit and inspect, at all reasonable times, a worksite subject to the provisions of this chapter and has authority to inspect, at all reasonable times, documents related to the determination of whether an individual is an employee under section 11(a) of this chapter.

(c) The commissioner or a representative of the commissioner may:

- (1) compel, by subpoena, the attendance and testimony of witnesses and the production of books, payrolls, records, papers, and other evidence in an investigation; and
- (2) administer oaths to witnesses.

Sec. 18. (a) Whenever the department believes, after investigation, that a violation of this chapter has occurred, the department may:

- (1) issue and cause to be served on a person an order to cease and desist from further violation of the chapter;
- (2) take affirmative or other action considered reasonable to eliminate the effect of the violation;
- (3) collect the amount of wages, salary, employment benefits, or other compensation denied or lost to an individual; or
- (4) assess a civil penalty allowed under section 13 of this chapter.

A civil penalty assessed by the department and any other relief requested by the department is recoverable in an action brought by the attorney general.

(b) When it appears to the department that a contractor or an

1 agent of the contractor has violated a valid order of the
2 department issued under this chapter, the department may:

- 3 (1) commence an action through the attorney general; and
- 4 (2) seek an order from the superior or circuit court in the
- 5 county in which the contractor does business, mandating the
- 6 contractor or the agent of the contractor to obey the order of
- 7 the department.

8 The failure of the contractor or the agent of the contractor to obey
9 the order of the court is contempt of court.

10 (c) Whenever the department determines that a violation of this
11 chapter has occurred, the department shall notify the contractor
12 or agent of the contractor in writing of the violation. A contractor
13 or an agent of a contractor that receives:

- 14 (1) an order based on a violation;
- 15 (2) a civil penalty assessment;
- 16 (3) a cease and desist order; or
- 17 (4) any combination of subdivisions (1) through (3);

18 from the department may seek a hearing on the determination by
19 filing a written petition for review with the department within ten
20 (10) business days after receipt of the determination and in
21 accordance with IC 4-21.5-3-2. The petition for review must
22 contain a statement of the basis for the contest. The department
23 shall mail a copy of the petition for review to the complainant and
24 to any interested party designated on the complaint. The
25 contractor shall post a copy of the petition for review
26 contemporaneously with the filing of the petition at or near the
27 place where the alleged violation occurred, or if the contractor is
28 no longer performing services at the place where the alleged
29 violation occurred, at the contractor's principal place of business
30 in a conspicuous place where labor notices regularly are posted.
31 Further, the contractor shall post a bond in an amount sufficient
32 to pay wages, salary, employment benefits, or other compensation
33 lost or denied to the individual as determined by the department
34 and civil penalties assessed by the department contemporaneously
35 with the filing of the petition. If the contractor or an agent of the
36 contractor does not file a petition for review and post a bond
37 within the ten (10) business day period, the department's
38 determination shall be final.

39 (d) If the contractor or agent of the contractor files a timely
40 petition for review, the commissioner shall set a hearing on the
41 alleged violation. The hearing must take place not more than
42 forty-five (45) calendar days after the receipt of the request for the
43 hearing by the department. The hearing must be held in
44 accordance with IC 4-21.5.

45 (e) After the second or subsequent violation determined by the
46 department that occurs within five (5) years of an earlier violation,
47 the department shall place the contractor's name on a list

maintained on the Internet web site of the department as required under section 14(b) of this chapter. A contract for a public work may not be awarded by the state or a political subdivision to:

- (1) a contractor whose name appears on the list; or
- (2) a firm, a corporation, a partnership, or an association in which the contractor has an interest;

until four (4) years have elapsed after the posting of the name on the list. If a contractor or agent of the contractor files a timely petition for review as set forth under subsection (c), the contractor's name shall not be added to the list until the department's determination that the contractor or agent of the contractor has violated this chapter is final.

Sec. 19. (a) The employee classification fund is established to:

- (1) administer this chapter;
- (2) investigate contractors and agents of contractors; and
- (3) fund other expenses incurred in carrying out the duties of the department under this chapter.

The fund consists of civil penalties collected by the department under this chapter. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. The interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 20. (a) It is a violation of this chapter for a contractor or an agent of a contractor to retaliate through discharge or in any other manner against a person for exercising a right granted under this chapter. Retaliation subjects a contractor or an agent of a contractor to civil penalties under section 13 of this chapter or a private cause of action, or both.

(b) It is a violation of this chapter for a contractor or an agent of a contractor to retaliate against a person for:

- (1) making a complaint to a contractor or an agent of a contractor, to a coworker, to a community organization, to a state or federal agency, or within a public hearing that rights guaranteed under this chapter have been violated;
- (2) causing a proceeding under or related to this chapter to be instituted; or
- (3) testifying or preparing to testify in an investigation or proceeding under this chapter.

Sec. 21. (a) A person aggrieved by a contractor or an agent of a contractor for a violation of this chapter may file suit in circuit court in the county where the alleged offense occurred or where

any person who is a party to the action resides, without regard to exhaustion of any alternative administrative remedies provided in this chapter. A person whose rights have been violated under this chapter by a contractor or an agent of a contractor is entitled to collect:

- (1) the amount of any wages, salary, employment benefits, or other compensation denied or lost to the person because of the violation;
- (2) any other compensatory damages;
- (3) in the case of an intentional violation, punitive damages in an amount equal to the civil penalties assessed under section 13(c) of this chapter;
- (4) in the case of unlawful retaliation as set forth in section 20 of this chapter, all legal or equitable relief, or both, as appropriate; and
- (5) attorney's fees and costs.

(b) The right of an interested party or aggrieved person to bring an action under this chapter terminates three (3) years after the final date of performing services for the contractor by the affected employee. The period of limitation is tolled if the contractor or an agent of the contractor has deterred a person's exercise of rights under this chapter.

Sec. 22. A person may not waive any provision of this chapter.

Sec. 23. A finding made under this chapter:

- (1) is for the purpose of enforcing this chapter; and
- (2) is not admissible or binding against a party in another proceeding.

Sec. 24. The department, the department of workforce development established by IC 22-4.1-2-1, the department of state revenue established by IC 6-8.1-2-1, and the worker's compensation board of Indiana created by IC 22-3-1-1(a) shall cooperate under this chapter by sharing information concerning any suspected misclassification of an employee as an independent contractor by a contractor or an agent of a contractor. Upon determining that a contractor or an agent of a contractor has classified an employee as an independent contractor in violation of this chapter, the department shall notify the:

- (1) department of workforce development, which shall check the contractor's compliance with laws under IC 22-4 and IC 22-4.1;
- (2) the department of state revenue, which shall check the contractor's compliance with laws under IC 6; and
- (3) the worker's compensation board of Indiana, which shall check the contractor's compliance with laws under IC 22-3.

SECTION 6. IC 22-3-1-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) This section applies after December 31, 2008.

1 **(b) The worker's compensation board of Indiana shall cooperate**
 2 **with the:**

- 3 **(1) department of state revenue established by IC 6-8.1-2-1;**
 4 **(2) department of labor created by IC 22-1-1-1; and**
 5 **(3) department of workforce development established by**
 6 **IC 22-4.1-2-1;**

7 **by sharing information concerning any suspected misclassification**
 8 **by a contractor (as defined in IC 22-2-14-5) of an employee as an**
 9 **independent contractor. Information shared pursuant to this**
 10 **section is confidential and may not be published or open to public**
 11 **inspection.**

12 SECTION 7. IC 22-4-18-8 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2008]: **Sec. 8. (a) This section applies after December 31, 2008.**

15 **(b) The department of workforce development shall cooperate**
 16 **with the:**

- 17 **(1) department of labor created by IC 22-1-1-1;**
 18 **(2) department of state revenue established by IC 6-8.1-2-1;**
 19 **and**
 20 **(3) worker's compensation board of Indiana created by**
 21 **IC 22-3-1-1(a);**

22 **by sharing information concerning any suspected misclassification**
 23 **by a contractor (as defined in IC 22-2-14-5) of an employee as an**
 24 **independent contractor. Information shared pursuant to this**
 25 **section is confidential and may not be published or open to public**
 26 **inspection."**

27 Page 8, between lines 17 and 18, begin a new paragraph and insert:

28 "SECTION 11. IC 34-11-2-13 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2008]: **Sec. 13. (a) This section applies**
 31 **beginning January 1, 2009.**

32 **(b) An action brought by an aggrieved person under IC 22-2-14**
 33 **must be commenced not later than three (3) years after the final**
 34 **date of performing services to the contractor as provided in**
 35 **IC 22-2-14-21(b)."**

36 Renumber all SECTIONS consecutively.

(Reference is to ESB 345 as printed February 15, 2008.)

Representative Niezgodski